

**Criminal Appeal No.743-SB of 1998.**

**IN THE HIGH COURT FOR THE STATES OF PUNJAB & HARYANA  
AT CHANDIGARH**

...

**Criminal Appeal No.743-SB of 1998.**

**Date of Decision: January 21,2010.**

**Gurnam Singh and another** ... Appellants.

VERSUS

**State of Haryana** ...Respondent

1. Whether the Reporters of Local Newspapers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest ?

CORAM :

**HON'BLE MR. JUSTICE MOHINDER PAL.**

Present: Mr. Ashit Malik, Advocate,  
for the appellants.

Ms. Sushma Chopra, Additional Advocate General,  
Haryana.

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**MOHINDER PAL, J.**

This appeal has been filed by appellants Gurnam Singh and Satnam Singh against the judgment of conviction dated 16.7.1998 and the sentence order dated 17.7. 1998 passed by the learned Additional Sessions Judge, Panipat, convicting and sentencing them under Section 307 and 506 read with Section 34 of the Indian Penal Code (for short `the Code'). For the former

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offence, the appellants were sentenced to undergo rigorous imprisonment for three years and to pay fine of Rs.2,000/- each, in default whereof to undergo further imprisonment for three months and for the latter offence they were sentenced to undergo rigorous imprisonment for three months. However, both the sentences awarded to the appellants were ordered to run concurrently.

Bachan Singh (co-accused of the appellants) died during the trial and criminal proceedings against them, accordingly, stood abated.

In brief, the case of the prosecution is that on 13.5.1993 at about 9.30 P.M, Gurnam Singh and Jeet Singh were quarrelling with each other as there was some dispute amongst them about rent. Hearing their noise, Hukam Singh and Pala Singh went there. Hukam Singh asked them as to why they were quarrelling with each other. Upon this, Bachan Singh (died accused) caught hold of Hukam Singh. Appellant Gurnam Singh gave a 'Gandasa' blow to Hukam Singh on his neck. Appellant Satnam Singh gave a 'Lathi' blow to him. On receipt of the said injuries, Hukam Singh fell down. The accused also gave 'Lathi' blows to Ajit Singh, who sustained multiple injuries on his body. Pala Ram raised an alarm attracting Jagdish, Ramesh and some other persons to the spot. They save the victims from the clutches of the accused. The accused, while leaving the spot, threatened Hukam Singh that they would kill him whenever they got a chance to do so. The instant F.I.R was registered on the basis of statement made by Pala

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Singh before the police.

During investigation, weapons of offence i.e 'Lathi' and 'Gandasi' were recovered from the possession of accused-appellants Satnam Singh and Gurnam Singh, respectively, in consequence of their disclosure statements.

Dr. P.K. Nigam (P.W.6), who had medico-legally examined injured Hukam Singh, on an application moved by the accused, opined that the possibility could not be ruled out that the injury suffered by Hukam Singh on his neck could have caused his death. He further opined the possibility of the said injury having been suffered by Hukam Singh with 'Gandasa' (Exhibit P.1) could not be ruled out.

After completion of investigation, report under Section 173 of the Code of Criminal Procedure was presented by the police against the accused in the Court of the Ilqa Magistrate, who committed the case to the Court of Session.

The accused were charged for the offences punishable under Sections 307, 323 and 506 read with Section 34 of the Code. They did not plead guilty to the charge and claimed trial.

At the trial, the prosecution examined Dr. R.K. Tandon (P.W.1), who had medico-legally examined injured Jeet Singh, Sub Inspector Badan Singh (P.W.2), an eye-witness Pala Ram (P.W.3), injured Hukam Singh (P.W.4), Zile Singh (P.W.5), Dr. P.K. Nigam (P.W.6), who had medico-legally examined injured Hukam Singh, Patwari Daya Nand (P.W.7), an eye-witness Jagdish (P.W.8), who turned hostile, another eye-witness Ramesh

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(P.W.9), who also turned hostile, Assistant Sub Inspector Zile Singh (P.W.10), injured Jeet Singh (P.W.11), who also turned hostile and Dr.Sunil Bajaj (P.W.12).

After the closure of the prosecution evidence, statements of the accused were recorded under Section 313 of the Code of Criminal Procedure in which they denied the prosecution allegations and pleaded false implication. However, no evidence was led by them in defence.

I have heard the learned counsel for the parties and have gone through the records of the case.

Complainant Pala Ram (P.W.3), injured Hukam Singh (P.W.4) and Zile Singh (P.W.5), witness to the recoveries of weapons of offence from the accused in consequence of the disclosure statements made by them, have completely supported the prosecution story, as unfolded in the earlier part of the judgment. There is no dispute with regard to the identity of the accused. It is also worth-mentioning here that there was no enmity between the accused and complainant Pala Ram (P.W.3), injured Hukam Singh (P.W.4) and Zile Singh (P.W.5); meaning thereby question of false implication of the accused did not arise. Pala Ram (P.W.3), Hukam Singh (P.W.4) and Zile Singh (P.W.5) had no axe to grind against the accused. The accused had some dispute with Jeet Singh (P.W.11) regarding tenancy/rent and they were quarrelling with Jeet Singh. The occurrence had taken place in front of the house of Hukam Singh (P.W.4). Pala Ram (P.W.3), brother of Hukam Singh, had come to

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meet Hukam Singh. Both Pala Ram and Hukam Singh intervened to end the quarrel. However, appellant Gurnam Singh struck a 'Gandasa' blow to Hukam Singh on his neck and appellant Satnam Singh gave multiple injuries with 'Lathi' to Jeet Singh. Jagdish (P.W.8) and Ramesh (P.W.9) had also been attracted to the spot. However, Jagdish (P.W.8), Ramesh (P.W.9) and Jeet Singh – injured (P.W.11) did not support the case of the prosecution and were got declared hostile by the Public Prosecutor. Jagdish (P.W.8), Ramesh (P.W.9) and Jeet Singh – injured (P.W.11) were cross-examined by the Public Prosecutor. A verdict of acquittal cannot follow the moment the witnesses turn hostile and dispensation of justice is not dependant upon the witnesses who make efforts to hold the law to ransom. Once the prosecution case is established on record by the other cogent and trustworthy evidence led by the prosecution, non-supporting of its case by the witnesses who appeared to have been won over by the accused does not at all affect the prosecution case. Learned counsel for the appellants argued that Pala Ram (P.W.3), Hukam Singh (P.W.4) and Zile Singh (P.W.5) are real brothers and, therefore, their statements cannot be relied upon being interested witnesses. However, merely because of their relationship inter se, there statements cannot be brushed aside in case they otherwise inspire confidence of the Court. Zile Singh (P.W.5) is a witness to the recoveries of 'Gandasa' and 'Lathi' from the accused in consequence of their disclosure statements. Hukam Singh (P.W.4),

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having received a dangerous to life injury on his neck, is a stamped witness of the prosecution. His version is supported by Pala Singh (P.W.3), who had witnessed the occurrence which took place in front of the house of Hukam Singh (P.W.4). Pala Singh (P.W.3) is a natural witness. Statements of Pala Singh and Hukam Singh get complete corroboration from the medical evidence furnished by Dr. R.K. Tandon (P.W.1), who had medico-legally examined injured Jeet Singh and Dr. P.K. Nigam (P.W.6), who had medico-legally examined injured Hukam Singh. Dr. R.K. Tandon (P.W.1) had observed eight injuries on the person of Pala Singh, which were multiple abrasions on the left chin, leg, thyroid cartilage, lower half of neck, front of chest, right upper part of the abdomen, back of right elbow joint, both knee joints, on the middle of lower back at the level of iliac crest. As mentioned above, Dr. P.K. Nigam (P.W.6) had medico-legally examined injured Hukam Singh. He had observed a wound on the neck of Hukam Singh. Vertebral bone was visible in the depth of the wound. Probing was not done due to risk of life of Hukam Singh. The wound was present on the back of neck on both sides of mid line being 7 cms on left side of mid line and rest of the wound on the right side. It was obliquely placed. There was fresh bleeding present in the wound. On an application moved by the accused, Dr. P.K. Nigam (P.W.6) opined that the possibility could not be ruled out that the injury suffered by Hukam Singh on his neck could have caused his death. He further opined the possibility of the said injury having been suffered by

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Hukam Singh with 'Gandasa' (Exhibit P.1) could not be ruled out. The medical evidence furnished by Dr. R.K. Tandon (P.W.1) and Dr. P.K. Nigam (P.W.6), thus, lends complete corroboration to the ocular version given by Pala Ram (P.W.3), Hukam Singh (P.W.4). Under the circumstances, the inescapable conclusion is that the appellants had caused injuries to Hukam Singh and Jeet Singh.

For the aforesaid reasons, I do not find any merit in this appeal and the same is hereby dismissed.

January 21, 2010.  
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**( MOHINDER PAL )  
JUDGE**